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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/396,531	
	Filing Date	9/15/1999	
	First Named Inventor	Randall A. Addington	
	Art Unit	3711	
	Examiner Name	William Pierce	
Total Number of Pages in This Submission	8	Attorney Docket Number	99-1001


ENCLOSURES (Check all that apply)		
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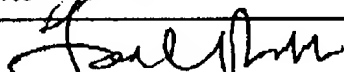
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Application Number: 09/396,531

Group Art Unit: 3711

Filing Date: 9/15/99

Examiner Name: William Pierce

Inventors: Randall Addington et al.

Attorney Docket No.: 99-1001

Title: Bowler's Aid

Assistant Commissioner of Patents

Washington, D.C. 20231

By Facsimile: 703-872-9303

37 C. F. R. 1.181 Petition

I.

This Petition Is Timely Filed

1. This Petition is for relief from the decision of E. Rollins-Cross, Director, Patent Examining Groups 3710 and 3720, dated October 2, 2003.

II.

No- Fee Petition

2. This Petition is made to correct a mistake, wholly by fault, of the U.S. Patent And Trademark Office.

III.

Petition Statement

3. Applicants petition the Assistant Commissioner For Patents, to vacate Group Director E. Rollins Cross' Decision On Petition, dated Oct. 2, 2003, on grounds of Group Director's bias and prejudice toward applicants, denying applicants the right to a fair, competent, and impartial review of applicants' petition filed June 26, 2003.

IV.

Background

4. On June 26, 2003, Applicants' petitioned for the removal of this application from the docket of examiner W. Pierce and from Technical Center 3700, on the grounds of bias and prejudice, shown by examiner Pierce and possibly extending through all of Technical Center 3700, and which prevented any fair and impartial examination of their application.
5. Group Director's Decision On Petition, dated Oct. 2, 2003, denied the petition for removal of petitioners' application from examiner Pierce or from Technical Center 3700,
6. Petitioners now make petition to the Assistant Commissioner of Patents to vacate Group Director's Decision On Petition on grounds that Group Director's Decision demonstrates unfair bias and prejudice toward applicants, preventing petitioners from receiving from Group Director, a fair and impartial review of their Petition filed June 26, 2003.
7. Petitioners limit this petition to the petition stated in Paragraph 3, above and expressly exclude here from, the merits of patent examination by examiner Pierce, or the bias and prejudice demonstrated by examiner Pierce, as asserted in petitioner's June 26, 2003 petition, except as referred to herein in connection with the asserted prejudice of Group Director.

V.

Petitioners' Grounds

8. Group Director's Decision on petitioners' June 26, 2003 Petition was made without any basis or grounding in record facts, and without any explanation or reasons connected to the record facts, which would support the Decision. This Decision without support in record fact or reasoning, is a opinion demonstrating a lack of knowledge, hostility to petitioners and prima facie bias and prejudice. Because of this bias and prejudice, the Decision is incompetent for any purpose of review or judgment of applicants' rights in the matter of the Petition filed June 26, 2003.
9. Applicants' June 26, 2003 petition requested their application be removed from examiner Pierce on grounds of prejudice. In the record facts of the June 26, 2003 Petition, are examiner Pierce's statements made in the Office Action mailed 6/18/2003, and asserted as demonstrating examiner prejudice. These statements of examiner Pierce are repeated in this Petition for completeness, as follows.

Examiner Pierce's statements asserted in the June 26, 2003, and asserted therein as demonstrating prejudice are (Page and line references are to the June 18, 2003 Office action).

- i) "... applicant has only presented careless changes containing errors..." (Page 2, line 3.)
- ii) "... Applicant... appears not to be familiar with the format of an Office action (sic) and how a grounds for rejection is (sic) presented." (Page 3, line 1 and 2.)
- iii) "An Office action (sic) does not use the explicit words as 'the fact are.' (sic) Instead language used to present facts are for example. The 'reference shows' or 'teaches.'" (Page 3, lines 2 and 3.)
- iv) "Merely because applicant is inexperienced with how an office action (sic) is presented and/or (sic) he chooses to ignore how the facts are presented..." (Page 3, lines 4 and 5.)
- v) "... applicant blindly restates the MPEP." (See Page 3, line 17.)
- vi) "To applicant this may seem 'illogical' based on his abilities. However, his deficiencies to comprehend the basis for a rejection fo not render it improper. (Page 3, lines 24 and 25.)
- vii) "Merely because applicant in not familiar with the MPEP, patent practice and/or chooses to ignore such does not render a rejection improper." (Page 4, lines 1 and 2.)
- viii) "When an examiner writes a rejection and he is assuming that he is dealing with a patent professional familiar with patent practice and prosecution, he may be brief with the consideration that the applicant would have the competence to understand, amend, and/or (sic) overcome the rejection. (Page 4, lines 4 to 6.)

ix) "Either in the present case, applicant is not a patent professional or he chooses to ignore the facts by taking the position that '(the rejection) fails to explain the facts, basis in law, or any other rational.'" (Page 4, lines 6 to 8.)

x) "Further, arguments pertaining this false and misleading statement will not be further addressed . . ." (See Page 5, line15.)

xi) "All the facts are clearly stated such that a patent professional can easily determine how the prior art meets the limitations of the claimed invention." (See Page 5, lines 18 and 19.)

10. The record facts of the June 26, 2003 Petitioners include petitioners' statement that the statements of examiner Pierce, repeated in Paragraph 9, i-xi, above, as

[d]irected to a registered patent attorney, these statements made by a representative of the U.S. Patent and Trademark Office, without any qualification of privilege, can serve no purpose in advancing the prosecution of this application, and can only be maliciously intended by examiner, with the purpose to intimidate, insult, defame, and cause injury to the attorney's professional reputation and to prevent applicants from receiving a fair and impartial examination.

and,

The damage caused to the applicants and to applicants' attorney at law, is irreparable, and applicant's attorney can offer no means or method for a cure to the harm already caused by the U.S. Patent And Trademark Office through its actions.

See Petition filed June 26, 2003, Paragraphs III, 5, 6.

11. Group Director's Decision, and complete findings of fact and law, rejecting the June 26, 2003 Petition, was limited to the following.

a) "... a review of the Office [June 18, 2003] letter in question shows that it in fact contains improvident and improper comments regarding the familiarity of 'applicant' with Office practice." (Third full paragraph, lines 2-3)

b) "It is clear that both petitioners and examiner each feel a certain degree of frustration . . ." (Third full paragraph, lines 7-8),

c) The examiner has consistently applied a primary reference, Fowble, and has not demonstrated that any prejudice against anyone prosecuting this application. Rather, the examiner has simply indicated that he feels that the claims are not patentable . . . " (Fourth full paragraph, lines 3-5)

d) That counsel and petitioner disagree with the merits of these actions is no more indicative of bias on the part of the examiner . . . than the examiner's disagreement with petitioner's is indicative of the degree of patent prosecution expertise possessed by petitioners and counsel." (Fourth full paragraph, lines 11-14)

12. Group Director's Decision and reasoning was made without any direct or indirect use or reference to examiner's statements, as repeated in Paragraph 9(i-xi) herein, and asserted by petitioner in their June 26, 2003 Petition as showing prejudice by examiner Pierce.

Each of the examiner statements, as repeated in Paragraph 9(i-xi) herein, asserted by petitioners in their June 26, 2003 Petition as showing prejudice by examiner, are extracted from the Office action of June 18, 2003, each of these statements is inextricably part of examiner Pierce's rejection of applicants' claims, and it is not possible to separate any of examiner Pierce's prejudicial statements, as repeated in Paragraph 9(i-xi), from the facts or reasons given for the rejection on the merits of the claims.

13. Group Director failed to address any of examiner Pierce's prejudicial remarks directly or indirectly, presented as Petition grounds in the June 26, 2003 Petition, and repeated in Paragraph 9(i-xi) herein.

There is no record fact that examiner Pierce's remarks were "improvident," as stated by Group Director (see paragraph 11a, above). Lacking any basis in record fact, Group Director's statement regarding examiner Pierce's remarks as "improvident," is an opinion made without any record fact basis, fails to address the record facts asserted by petitioner as the basis for the charge of prejudice and, as an opinion given in reply to petitioners' grounds, is adverse to petitioners without any just grounds, demonstrating Group Director's hostility and bias toward petitioners.

14. Group Director's statements as repeated above in Paragraph 11b, that petitioner is "frustrated," is her opinion, without any record fact support. The plain and generally understood meaning of that expressed opinion is that petitioners are ineffectual, and suffer from a deep chronic state of insecurity. That opinion is given without any knowledge of petitioners or their counsel, and shows a

condescension to petitioners and an assumed air of superiority by Group Director. That same opinion is critical, hostile to, and derogatory of, petitioners' counsel. A legal counsels' reputation is built on an ability to continually and demonstrably function securely and with confidence.

15. Group Director's statements, repeated in Paragraphs 11c and d, above were not directed to the examiner statements asserted by petitioner in their June 26, 2003 Petition and repeated herein in Paragraph 9(i-xi), above, and are not shown as relevant to the Decision On Petition to any support of the Decision by record facts and acceptable reasoning. Group Director's statement avoids the issue of prejudice and bias demonstrated by examiner's statements, repeated herein in Paragraph 8 (i-xi), and must be disregarded as irrelevant.

16. Group Director hostile and derogatory opinions are inextricably merged into the Oct. 2, 2003 Decision, shows Group Director's bias and prejudice to petitioners and denies to petitioners a fair and impartial review of the June 26, 2003 Petition.

IV.

Summary

17. This is a petition to vacate Oct. 2, 2003 Decision On Petition and for the relief , as stated in V., below. Its grounds are,

the bias and prejudice of Group Director demonstrated by Group Director's Decision limited to an opinion made without any reference to, or rebuttal of, the record facts and reasoning presented by the petitioners,

Group Director's Decision limited to an adverse and hostile opinion without any record based findings,

and,

by the derogatory, defamatory, and condescending, record treatment of petitioner, in referring to petitioners as "frustrated, and implying petitioners June 26, 2003 Petition, are ineffectual.

IV.

Relief Requested

18. Petitioners request this Decision On Petition filed June 26, 2003, be vacated and the Petition filed June 26, 2003 be referred to the Assistant Commissioner's Office for decision.

Submitted

 10/8/2003

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